

## Message Text

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DEPARTMENT OF JUSTICE: MR. BRUNO RISTAU, RM 3613

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USARMY CID COMMAND

UNCLAS STATE 130188

SECDEF FOR PDASD(C) -- CID COMMAND FOR CIOP-FR

E.O. 11652: N/A

TAGS:CGEN

SUBJECT:U.S. V SIMMONS, ET AL.

REF: (A) STATE 120274; (B) HONG KONG 5960

1. DOJ REQUESTS THAT BILL OF JOHNSON, STOKES AND MASTER BE TRANSMITTED TO DOJ (MR. RISTAU), FOR PROCESSING AND SETTLEMENT.

2. SIZE OF BILL MAKES IT IMPERATIVE THAT COUNSEL GIVE A MUCH MORE DETAILED BREAKDOWN OF SERVICES RENDERED, NAMELY: PRECISE DATES ON WHICH SERVICES WERE RENDERED; IDENTITY OF INDIVIDUALS RENDERING SUCH SERVICES; NATURE OF SERVICES RENDERED (I.E., DRAFTING COURT DOCUMENTS; CONSULTATIONS; LEGAL RESEARCH; CORRESPONDENCE; CONFERENCES; ATTENDANCE IN COURT, ETC.) FINALLY, HOW WAS AMOUNT OF HK DOLS 52,500 ARRIVED AT? IF ON BASIS OF AN HOURLY RATE, WHAT IS THE CHARGED RATE?

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3. BILL SHOULD ALSO GIVE BREAKDOWN OF MR. WRIGHT'S AND MR. DICKS' CHARGES. HOW WERE THE FIGURES OF HK DOLS 32,350 AND DOLS 8,750, RESPECTIVELY, ARRIVED AT? HOURLY RATE? DAILY RATE? FIXED RATE FOR EACH COURT

APPEARANCE? HOW MANY COURT APPEARANCES? (MOREOVER, WHO IS DICKS?)

4. CONGEN REQUESTED TO EXPLAIN TO COUNSEL THAT SUBMISSION OF DETAILED BILLING IS MANDATED BY INTERNAL FISCAL REGULATIONS. COUNSEL ARE UNDOUBTEDLY AWARE THAT USG, AS SOVEREIGN ENTITY, IS NOT AN ORDINARY CLIENT, AND THAT U.S. PUBLIC LAWS AND REGULATIONS IMPOSE UPON FISCAL AGENTS OF USG CERTAIN REQUIREMENTS NOT ORDINARILY FOUND IN DEALINGS WITH PRIVATE CLIENTS.

5. CONGEN FURTHER REQUESTED TO SUBMIT COUNSEL'S BEST ESTIMATE OF POTENTIAL FUTURE FEES (BOTH FOR SOLICITOR AND BARRISTER). IT IS MANIFEST THAT ORIGINAL ESTIMATE OF MAXIMUM FEES OF DOLS 11,000 WAS WHOLLY UNREALISTIC.

6. IN VIEW OF MAJ. ROSE'S IMPENDING RETURN TO US, DOJ REQUESTS THAT HE CONSULT SOONEST WITH COUNSEL AND OBTAIN

COUNSEL'S VIEWS OR OPINIONS ON FOLLOWING POINTS:

A. WHAT WAS THE BASIS FOR JUSTICE LEONARD'S DISCHARGE OF THE INJUNCTION AGAINST THE WONGS ON 4/11/75, CONSIDERING THAT FUNDS INVOLVED WERE DIRECTLY TRACEABLE TO MONIES EMBEZZLED FROM USG?

B. WHAT STEPS, IF ANY, HAVE BEEN TAKEN OR ARE CONTEMPLATED TO SEQUESTER OR ATTACH SIMMONS' APARTMENT (EXHIBIT AJO 62J), FURNITURE (EXHIBIT AJO 71), TWO CARS (EXHIBITS AJO 6306 AND AJO 67 & 68), POSSIBLE ADDITIONAL REAL ESTATE (EXHIBIT AJO 74), JEWELRY (EXHIBITS AJO 69 & 70, JOG 1 & 2), SAKAI'S CAR (EXHIBIT AJO 72) AND SAKAI'S STOCK (EXHIBIT AJO 73)?

C. WHAT EFFECT, IF ANY, MIGHT INSTITUTION OF A CIVIL ACTION AGAINST SIMMONS IN THE U.S. HAVE ON THE CIVIL ACTION IN HONG KONG?  
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D. WHAT EFFECT, IF ANY, MIGHT A POSSIBLE INDICTMENT AND CRIMINAL PROSECUTION OF SIMMONS IN THE U.S. HAVE ON THE CIVIL ACTION IN HONG KONG? (FYI: SIMMONS PRESENTLY IN PARSONS, W. VA. DOJ EXAMINING POSSIBILITY OF PROCEEDING AGAINST HIM IN THIS COUNTRY, IN ADDITION TO CONTINUING PRESENT PROCEEDINGS IN HONG KONG. END FYI.)

E. RE APPEAL TO FULL COURT FILED BY SERVAL AND PAN-ASIA FROM JUSTICE LEONARD'S ORDER OF MAY 9: HOW SOON WILL HEARING ON APPEAL BE HELD? HOW SOON THEREAFTER CAN DECISION BE EXPECTED? HAS FILING OF APPEAL IN ANY WAY IMPEDED PROSECUTION OF ACTION AGAINST DEFENDANTS 1 THRU

6. IN EVENT APPELLANTS PREVAIL ON APPEAL (I.E., COURT HOLDING THAT INITIAL INJUNCTIONS AGAINST SERVAL AND PAN-ASIA WERE IMPROPERLY GRANTED) WHAT ARE USG'S CHANCES OF RE ATTACHING FUNDS OF THESE COMPANIES?

F. WHAT IS CURRENT STATUS OF "DETAILED STATEMENT OF CLAIM" WHICH USG MUST PRESENT IN ORDER TO PROCEED TO TRAIL ON THE MERITS (SEE PARA. 4, HONG KONG 5475).

7. IN VIEW OF DEPARTURE OF MAJ. ROSE, CONGEN REQUESTED TO INFORM DOJ WHETHER IT DESIRES TO CONTINUE AS CENTRAL TRANSMISSION POINT OF COMMUNICATIONS BETWEEN JUSTICE AND LOCAL COUNSEL, OR WHETHER IT PREFERS THAT DOJ COMMUNICATE WITH COUNSEL DIRECTLY (WITH INFO COPIES TO CONGEN) REGARDING PURELY LEGAL ISSUES, TRIAL STRATEGY, APPELLATE PROCEEDINGS, ETC. SHOULD CONGEN PREFER MAINTAIN ITS POSITION AS TRANSMISSION POINT, ARRANGEMENTS WILL HAVE TO BE MADE WITH COUNSEL TO ENSURE (A) CONTINUED AND TIMELY TRANSMISSION OF COPIES OF ALL FUTURE PLEADINGS, AFFIDAVITS, BRIEFS AND SIMILAR COURT PAPERS; (B) TIMELY AND COMPREHENSIVE ADVICE ON PROPOSED TRIAL STRATEGY OR OTHER STEPS CONTEMPLATED IN COURT; AND (C) PROMPT ADVICE ON SIGNIFICANCE OF RULINGS BY THE COURT; APPELLATE REMEDIES AVAILABLE IN CASE OF ADVERSE RULINGS ETC. (FYI: IT IS IMPERTATIVE THAT DOJ BE KEPT CURRENT AT ALL TIMES OF STATUS OF PROCEEDINGS. COUNSEL MUST BE DIPLOMATICALLY MADE TO UNDERSTAND THAT THEY ARE NOT AT UNCLASSIFIED

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LIBERTY TO PLAN AND CARRY OUT LITIGATION STRATEGY WITHOUT PRIOR CONSULTATION WITH DOJ. ON SIGNIFICANT MATTERS, PRIOR APPROVAL OF DOJ MUST BE OBTAINED. UNDER 28 U.S.C. 515-519, DOJ MAY NOT DELEGATE TO FOREIGN COUNSEL ALL LITIGATIVE RESPONSIBILITY, SETTLEMENT OR COMPROMISE AUTHORITY, OR RESPONSIBILITY FOR DETERMINATIONS WHETHER TO TAKE APPEALS. PERTINENT LAW PROVIDES: "THE ATTORNEY GENERAL SHALL SUPERVISE ALL LITIGATION TO WHICH THE UNITED STATES IS A PARTY, AND SHALL DIRECT ALL SPECIAL ATTORNEYS IN THE DISCHARGE OF THEIR RESPECTIVE DUTIES." END FYI). KISSINGER

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